

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
UBS FINANCIAL SERVICES, INC. and  
UBS SECURITIES LLC,

Plaintiffs,

- v. -

WEST VIRGINIA UNIVERSITY HOSPITALS, INC.,  
UNITED HOSPITAL CENTER, INC., WEST VIRGINIA  
UNIVERSITY HOSPITALS-EAST, INC., CITY  
HOSPITAL FOUNDATION, INC., and WEST VIRGINIA  
UNITED HEALTH SYSTEM, INC.,

Defendants.  
-----X

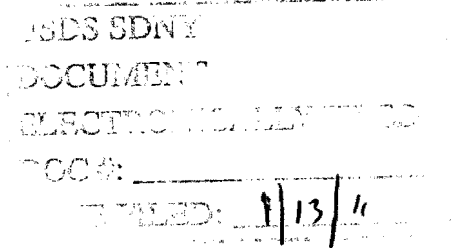
:  
:  
:  
:  
: 10 CV 4298 (VM)

: ECF Case

**ORDER**

WHEREAS, by decision and order entered January 4, 2011 (the "January 4 Order"), this Court (a) denied the motion for preliminary injunction by plaintiffs UBS Financial Services, Inc. and UBS Securities LLC (collectively, "UBS") and (b) directed UBS to advise the Court whether, in light of that denial, UBS contemplated any further proceedings in this Court; and

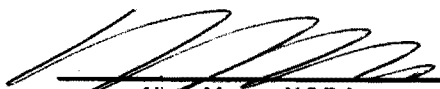
WHEREAS, by letter dated January 11, 2011, UBS has advised that (a) it does not contemplate further proceedings in this Court; (b) it intends to pursue an appeal to the Second Circuit on an expedited basis; and (c) given the nature of the case, UBS believes that appeal should be pursued on the basis of the present record and the January 4 Order, rather than engaging in full discovery and further development of the case at the district court level; and



WHEREAS, Defendants do not object to proceeding on the basis proposed by UBS, and, upon review of the record and all prior pleadings and proceedings in this matter to date, the Court concurs that the approach proposed by UBS is sensible and efficient,

Accordingly, it is hereby **ORDERED** that final judgment is entered in favor of Defendants, substantially for the reasons stated in the January 4 Order, and this case is dismissed, provided, however, that in consenting to entry of this order, both UBS and the Defendants reserve all rights to pursue issues on appeal.

  
**VICTOR MARRERO, U.S.D.J.**

<b>SO ORDERED.</b> The Clerk of Court is directed to terminate any pending motions in this action and to close this case.	
<b>SO ORDERED.</b>	
<u>1-13-11</u> Date	 Victor Marrero, U.S.D.J.

DEBEVOISE & PLIMPTON LLP

919 Third Avenue  
New York, NY 10022  
Tel 212 909 6000  
www.debevoise.com

Jeremy Feigelson  
Partner  
Tel 212 909 6230  
Fax 212 521 7230  
jfeigelson@debevoise.com

January 11, 2011

**BY HAND**

Hon. Victor Marrero  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 660  
New York, New York 10007

**UBS Financial Services, Inc. et al. v.  
West Virginia University Hospitals, Inc. et al.  
10 CV 4298 (VM)**

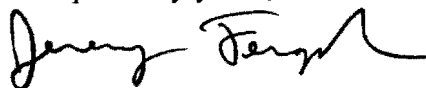
Dear Judge Marrero:

On behalf of plaintiffs UBS Financial Services, Inc. and UBS Securities LLC (collectively, "UBS"), we write in response to the Decision and Order dated January 4, 2011 (the "January 4 Order"). The January 4 Order required UBS to advise by today whether it contemplates further proceedings in this Court. UBS does not contemplate any such proceedings, but instead requests the entry of a final order of dismissal.

Because this case raises important issues for UBS and its industry, UBS plans to seek review by the Second Circuit on an expedited basis. We believe it would be sensible and efficient for that appeal to go forward on the basis of the present record and the January 4 Order. Given the nature of the case, it seems unlikely that discovery and full development of the case at the district court level would lead to a different outcome than is stated in the January 4 Order.

Accordingly, UBS asks that the Court enter the enclosed proposed order as soon as possible. UBS has consulted with defendants regarding this order, and they have authorized us to state that they have no objection to its entry.

Respectfully yours,



Jeremy Feigelson

Enclosure

cc: Jason W. Burge, Esq. (by e-mail)  
Athanasios Basdekis, Esq. (by e-mail)